IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 26TH OCTOBER 2006 / 4TH KARTHIKA 1928

WP(C).No. 21843 of 2006(A)

PETITIONER:

S. JAGAL MOHAN, `BHAVANA'
NEDUNGOLAM P.O., PARAVOOR, KOLLAM.

(CLERK, R.T.O. OFFICE, KARUNAGAPPALLY)
MOTOR VEHICLE DEPARTMENT.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS:

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1. STATE OF KERALA REP. BY SECRETARY
GENERAL EDUCATION DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM.

2. REGISTRAR OF BIRTH & DEATH,
KOLLAM CORPORATION, KOLLAM.

BY ADV. SRI.M.K.CHANDRA MOHAN DAS,SC,KOLLAM MPT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (wp. 21843/06)

EXT.P1: TRUE PHOTOCOPY OF LETTER DT. 11/6/2004.

EXT.P2: TRUE PHOTOCOPY OF BIRTH REGISTER DT. 24/8/2004.

EXT.P3: TRUE PHOTOCOPY OF ORDER DT. 29/5/2006.

RESPONDENTS' EXHIBITS:

ANNEXURE R2(A): TRUE COPY OF LETTER DT. 20/12/2002.

ANNEXURE R2(B): TRUE COPY OF LETTER DEMANDING CERTIFICATES DT. 18/12/2002.

A.K. Basheer, J.

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W.P(C) No. 21843 of 2006-A

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Dated this the 26th day of October, 2006.

J U D G M E N T

Petitioner is stated to be working as Clerk in the office of the Regional Transport Officer, Karunagappally. According to the petitioner his date of birth is February 5, 1954. However the date of birth was wrongly shown in his school records as December 1, 1952. Though the petitioner had applied for correction of date of birth in the school records including the Secondary School Leaving Certificate, the said application was rejected by Ext.P3 order . Petitioner prays for issuance of a writ of certiorari to quash Ext.P3 order and also for an appropriate direction to respondent No.1 to condone the delay in applying for correction of date of birth "in both the service book and SSLC book".

2. It is admitted that G.O (P)26/91/P & ARD dated August 27, 1991 and G.O (P)45/91/P & ARD dated December 30, 1991 govern the field with regard to the power of the Government to allow correction of date of birth in service books. It is also admitted by the petitioner that mere correction of date of birth in the school records will not entitle him for a consequential correction of date of birth in the service book. The Government reserves its right to consider each case on its merit and to take a decision in the matter.

3. In G.O (P)45/91/P & ARD it has been stipulated that application for correction of date of birth in the case of a Government employee shall be within 5 years of his entry in service. In the case of those who have already crossed this limit of five years, further period

of one year from the date of the Govt. Order (December 30, 1991) shall be allowed, "provided they apply beyond the 2 year period preceding retirement reckoned with reference to the date of birth as recorded in the service book."

4. In the case on hand, petitioner has not even crossed the first hurdle. The date of birth in his school records has not yet been corrected. In Ext.P3 the Government found that petitioner was not entitled to get his date of birth corrected in the school records.

5. Relying on the provisions contained in Rule 3(1) of Chapter VI KER it is contended by the petitioner that the Government ought to have allowed his application for correction . The relevant portion of the rule and the Note thereunder are extracted hereunder.

> "3. Alteration of Date of Birth etc:- (1) The name of a pupil, his religion and his date of birth once entered in the Admission Register shall not be altered except with the sanction of the authority specified by Government in this behalf by notification in the Gazette. Applications for such alterations and corrections should be submitted by the parent or guardian, if the pupil is still on the rolls of any school and by the pupil himself if he is not on the rolls of any school. All such applications shall be forwarded through the Headmaster with satisfactory evidence .
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> (1A) A time limit of fifteen years from the date of leaving the school or the date of appearing for the SSLC examination for the

> last time whichever is earlier is fixed for entertaining requests for correction of date of birth in school records by the Commissioner of Government Examinations.
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> Note:- The Government shall consider requests for condonation of delay in making application for correction of date of birth in school records, in deserving cases, on merits, provided that the applicant is within 50 years of age as per the original entry in the school records."

It is contended by the petitioner that he had applied for a certificate from the local statutory body (Kollam Municipal Corporation) on December 9, 2002. But the Corporation had issued a certificate only on August 24, 2004 showing his date of birth as February 5, 1954 as claimed by him. The case of the petitioner is that the delay that had occurred in getting Ext.P2 birth certificate from the Municipal Corporation was not due to any fault on his part. The delay caused by the Corporation ought to have been taken into account by the Government while rejecting his application for correction.

6. I am afraid the above contention raised by the petitioner is wholly untenable. Note to Rule 3(1)(A) enables the Government to consider the request for condonation of delay in making application for correction of date of birth in school records in deserving cases on merits, provided the applicant is within 50 years of age as per the original entry in the school records. The original entry in the school records as admitted by the petitioner himself is December 1, 1952. Admittedly the petitioner had submitted his application for correction

of date of birth before the Government only on November 11, 2005. Therefore the application was clearly out of time. Even if we take the date of application for issuance of a birth certificate before the Municipal Corporation, it can be seen that the petitioner had applied for the certificate only on December 9, 2002 which is also beyond 50 years. Therefore there is no merit in the contention raised by the petitioner that his application for correction of date of birth in the school records was liable to be allowed by the Government cannot be sustained at all. I do not find any illegality or irregularity in Ext.P3 order passed by the Government .

7. I have also gone through the relevant file produced by the Municipal Corporation as directed by this Court. I refrain from making any comment on the birth certificate now issued to the petitioner, though the enquiry that is stated to have been conducted by the officers concerned appears to be far from satisfactory. Anyhow, the observations made above need not be treated as an opinion expressed on the subject. A perusal of the file shows that in the application filed by the petitioner for issuance of certificate, the alleged signatures of petitioner's parents are seen to have been incorporated. Admittedly petitioner's father had passed away on July 10, 1991 (his death certificate is in the file). Petitioner's mother had died on July 19, 2000. Her death certificate is also available in the file. Learned counsel for the petitioner was not in a position to say as to how the petitioner's parents would have signed in the application for issuance of petitioner's certificate which was submitted on November 16, 2002. Yet again, I refrain from making any further comment on this aspect.

8. It has been repeatedly held by their Lordships of the Supreme Court and this Court that application for correction of date of birth in

the school and service records by Government employees at the fag end of their career should not be entertained as a matter of course. Petitioner had submitted the application before the Government at the fag end of his career. The Government had rightly rejected the application. I do not find any merit in the contentions raised by the petitioner while challenging Ext.P3 order.

Writ Petition fails and it is accordingly dismissed.

A.K. Basheer
Judge.

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